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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/810,244

03/26/2004

Raymond Aubin

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34645 7590 09/19/2008

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EXAMINER

NGUYEN, THANH T

ART UNIT

PAPER NUMBER

2144

NOTIFICATION DATE

DELIVERY MODE

09/19/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/810,244	<b>Applicant(s)</b> AUBIN ET AL.	
	<b>Examiner</b> Thanh Tammy Nguyen	<b>Art Unit</b> 2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE (3) MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on March 26, 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/13/06, and 3/26/04</u> .                                   | 6) <input type="checkbox"/> Other: _____                          |



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**Detailed Office Action**

1. This action is in response to most recent papers received.
2. Claims 1-20 have been examined.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:
4. A person shall be entitled to a patent unless –  

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Dighe et al. (Publication No. US 2002/0097725A1, herein referred to as “Dighe”).
6. As to claim 1, Dighe discloses the invention as claimed, Dighe discloses including a method of assigning network resources to L1-VPNs on a communication network, the method comprising the steps of: collecting information about available resources on the network [paragraphs 0042 and 0044] (available resource); and designating a first subset of the resources as dedicated L1-VPN resources [paragraph 0034] (VPN-1, spanning through switches S1, S2, S3 and S4, is allocated to customer-1); and designating a second subset of the resources as shared L1-VPN resources [paragraph 0034](VPN-2, which spans through S1, S3 and S4, is assigned to customer-2, who has presence at site-1 and site-3).
7. As to claim 2, Dighe discloses the method of claim 1, wherein the step of designating the first subset of the resources as dedicated L1-VPN resources comprises assigning at least a first portion of the first subset of the resources to a first L1-VPN subscriber [paragraph 0034] a(VPN-1, spanning through switches S1, S2, S3 and S4, is allocated to customer-1).
8. As to claim 3, Dighe discloses the method of claim 2, wherein the resources assigned to the first L1-VPN subscriber may only be used by the L1-VPN subscriber [paragraph 0034] (VPN-2, which spans through S1, S3 and S4, is assigned to customer-2, who has presence at site-1 and site-3).

9. As to claim 4, Dighe discloses the method of claim 1, wherein the step of designating a second subset of the resources as shared L1-VPN resources comprises assigning at least a second portion of the second subset of the resources to be shared by at least two L1-VPN subscribers [fig.1].
10. As to claim 5, Dighe discloses the method of claim 4, wherein the at least two L1-VPN subscribers are a group of L1-VPN subscribers, and wherein the shared resources assigned to group of L1-VPN subscribers may be used by one of group members at a time [paragraph 0044].
11. As to claim 6, Dighe discloses the method of claim 1, further comprising designating a subset of the resources as public L1-VPN resources [figure.1].
12. As to claim 7, Dighe discloses the method of claim 1, wherein resources not designated as dedicated L1-VPN resources and not designated as shared L1-VPN resources are public L1-VPN resources [figure.2].
13. As to claim 8, Dighe discloses the method of claim 1, further comprising the step of communicating information associated with the steps of designating the first subset of the resources as dedicated L1-VPN resources; and designating the second subset of the resources as shared L1-VPN resources to network elements to enable those resources to be allocated on the communication network [paragraph 0042-0064].
14. As to claim 9, Dighe discloses the invention as claimed, Dighe teaches including a method of allocating network resources to L1-VPNs on a communication network, the method comprising the steps of: receiving assignment information associated with assignment of network resources to L1-VPNs [paragraph 0011, 0034]; and receiving

- a request associated with an L1-VPN subscriber for network resources [paragraph 0005, 0019, and 0042]; and allocating assigned network resources to fulfill the request [paragraph 0013, 0018, 0043].
15. As to claim 10, Dighe discloses the method of claim 9, wherein the assignment information contains an indication of which network resources are network resources that may only be used by one L1-VPN subscriber, and which network resources may only be used by a group of L1-VPN subscribers [figure.1].
  16. As to claim 11, Dighe discloses the method of claim 9, wherein the step of allocating assigned network resources comprises determining current assignment information for the L1-VPN subscriber to determine which network resources have been assigned to the L1-VPN subscriber, and preferentially allocating network resources to the L1-VPN subscriber from those network resources that have been assigned to the L1-VPN subscriber [paragraph 0042-0064].
  17. As to claim 12, Dighe discloses the method of claim 9, wherein the step of allocating assigned network resources comprises determining current assignment information for the L1-VPN subscriber to determine which network resources have been assigned to the L1-VPN subscriber, and determining which of the assigned network resources are currently in use [paragraph 0036].
  18. As to claim 13, Dighe discloses the method of claim 12, wherein the step of allocating further comprises preferentially selecting network resources that have been assigned to the L1-VPN subscriber and which are not currently in use to fulfill the

- request, and selecting public network resources to augment the assigned resources to fulfill the request if necessary [paragraph 0045].
19. As to claim 14, Dighe discloses the method of claim 13, wherein the step of allocating comprises prioritizing between L1-VPN subscribers to enable a first L1-VPN subscriber associated with assigned network resources to preempt a second L1-VPN subscriber currently allocated the assigned network resource [paragraph 0042].
  20. As to claim 15, Dighe discloses the method of claim 14, wherein prioritizing results in a transfer of the network resource from the second L1-VPN subscriber to the first L1-VPN subscriber [paragraph 0072].
  21. As to claim 16, Dighe discloses the method of claim 9, wherein the step of allocating assigned network resources to fulfill the request comprises temporarily dedicating the resources to be used by only one L1-VPN subscriber for the allocation period [paragraph 0042].
  22. As to claim 17, Dighe discloses the method of claim 9, wherein the step of allocating is done on demand [figure 1].
  23. As to claim 18, Dighe discloses the method of claim 9, wherein the step of allocating allows network resources to be shared between multiple L1-VPN subscribers by allowing the same network resources to be allocated to more than one L1-VPN subscriber, one L1-VPN subscriber at a time [paragraph 0042].
  24. As to claim 19, Dighe discloses the invention as claimed, Dighe teaches including an apparatus for assigning network resources to L1-VPNs on a communication network, comprising: a processor containing control logic configured to: assign network

- resources to L1-VPN subscribers [paragraphs 0011, and 0034]; and allocate assigned resources in response to requests [paragraphs 0042-0043].
25. As to claim 20, Dighe discloses the apparatus of claim 19, wherein the resources are optical network resources, and wherein allocated assigned resources may be used by only one L1-VPN subscriber while allocated [paragraphs, 0042, 0011].

***Conclusion***

26. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tammy T. Nguyen whose telephone number is 571-272- 3929. The examiner can normally be reached on Monday - Friday 8:30 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ***William Vaughn*** can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the



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automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thanh Tammy Nguyen/

Primary Examiner, Art Unit 2144